

July 25, 2008

(E-19J)

Mr. Robert F. Tally, Jr., Division Administrator
Federal Highway Administration - Indiana Division
575 North Pennsylvania St., Room 254
Indianapolis, IN 46204

Re: *US 31 (Hamilton County, Indiana) Supplemental Draft Environmental Impact Statement*,
dated May 2008. (CEQ No. 20080210)

Dear Mr. Tally:

In accordance with our responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act, the U.S. Environmental Protection Agency (EPA) reviewed the above referenced Federal Highway Administration (FHWA) Supplemental Draft Environmental Impact Statement (SDEIS) for the US 31 Hamilton County Improvement Project.

The SDEIS identifies and evaluates a build alternative (i.e., Major Moves Alternative) the Indiana Department of Transportation (INDOT) developed since the 2003 Draft EIS (DEIS) and the 2004 *Preferred Alternative and Mitigation Package* (PAMP). The Major Moves Alternative is a revised version of the F4 Alternative identified in the 2004 PAMP. The proposal remains an upgrade of the existing facility to freeway standards including grade separated interchanges, controlled access, and removal of traffic signals on the mainline. Changes mainly center around the type of interchange design recommended at various locations. The SDEIS explains that the Major Moves Alternative was developed in order to accommodate current traffic volumes and forecasts. It is currently identified as the INDOT Preferred Alternative.

The SDEIS provides a comparison of the Major Moves Alternative's impacts, the re-evaluated impacts of the F4 Alternative (SDEIS F4 Alternative) and the original impacts of the DEIS F4 Alternative. Our review of the SDEIS reveals that the Major Moves Alternative would have only slightly more impact to resources of concern, such as forested wetlands, streams, 100-year floodplains, and upland forest (including floodplain forest) than the re-evaluated SDEIS F4 Alternative. The amount of impact has generally increased for many resources of concern from those originally identified in the 2003 DEIS. These include, but are not limited to, increased wetland, stream and 100-year floodplain impacts. As long as adequate mitigation is undertaken, we do not find these increases to be a major concern. Impacts to upland forest and Wellhead Protection Zones (WPZs) remain substantially the same as presented in the DEIS at approximately 30 acres and 4 WPZs, respectively.

While EPA's comments indicate areas where additional information is needed, the SDEIS generally provides an adequate identification and analysis of the Major Moves Alternative and re-evaluation of the SDEIS F4 Alternative, and potential environmental impacts. Our remaining concerns with this project regard reducing the potential for impacts to public drinking water supplies in wellhead protection zones (WPZs), and mitigation (i.e., avoidance, minimization and compensation) for the increased impacts to wetlands, streams, and floodplains. We also encourage voluntary compensation for upland forest loss and provide comment on the SDEIS Mobile Source Air Toxics Analysis. Our detailed comments are provided in the enclosure titled *EPA Region 5 Comments on the US 31 Improvement Project (I-465 to SR 38), Hamilton County, Indiana, Supplemental Draft Environmental Impact Statement*.

The SDEIS and the Major Moves (Preferred) Alternative receive an EC-2 rating (environmental concerns - additional information needed). This means the EPA has identified environmental impacts that should be avoided in order to fully protect the environment. Additional information regarding mitigation commitments for avoiding, minimizing and compensating for impacts to water resources, floodplains, WPZs, and forests should be included in the Final EIS (FEIS) and Record of Decision (ROD). A summary of EPA's rating definitions is enclosed.

EPA would like to work with FHWA and INDOT to reduce these impacts. Please contact us if you have any questions regarding EPA's comments or would like to discuss how our concerns can be best addressed. Our staff contact is Virginia Laszewski at (312) 886-7501.

Sincerely,

/S/ (Sherry Kamke, acting for)

Kenneth A. Westlake, Supervisor
NEPA Implementation
Office of Enforcement and Compliance Assurance

Enclosure: Summary of Rating Definitions

cc: Scott Pruitt, Field Supervisor, U.S. Fish and Wildlife Service - Bloomington Field Office

**EPA Region 5 Comments on the
US 31 Improvement Project (I-465 to SR 38), Hamilton County, Indiana
Supplemental Draft Environmental Impact Statement
CEQ No. 20080210**

ENVIRONMENTAL IMPACTS and MITIGATION

Based on the information provided in the SDEIS, the Major Moves Alternative would have slightly more impacts to natural resources than the re-evaluated SDEIS F4 Alternative. The SDEIS impacts to resources of concern are generally greater than identified in the 2003 DEIS.

Public Water Supplies / Wellhead Protection Zones

The Major Moves Alternative and the F4 Alternative would extend into four Wellhead Protection Zones (WPZs) associated with public drinking water supply wells. The WPZs are near or within the existing US 31 right-of-way (ROW). With or without an upgrade of the existing US 31, there needs to be good emergency response capability for handling spills. The SDEIS does not identify the specific measures that are in place for spill response to protect the wells from contamination.

EPA recommends the Final EIS (FEIS) include details of the emergency response plan and a discussion of its adequacy. Mitigation measures, if needed, should also be identified and committed to in the FEIS and Record of Decision (ROD) for this project.

In order to insure the protection of public drinking water supplies, we recommend that the proposed roadway be designed so that stormwater runoff and potential spills are diverted, treated and released outside WPZs.

Wetlands and Streams

Direct wetland impacts of the DEIS F4 Alternative increased from 0.71 acres (0.06 acres of forested wetlands) to 5.54 acres (0.48 acres of forested wetlands) since the DEIS. The SDEIS identifies that the Major Moves Alternative would directly impact, 6.77 acres of wetlands (2.0 acres of forested wetlands).

Like the DEIS, the SDEIS identifies adequate wetland mitigation ratios. This includes a 4:1 replacement ratio for forested wetlands. The document provides a good discussion of the various components that make up a wetland compensation and monitoring plan. Two potential wetland compensation mitigation areas are also identified (DeHart Farms Goose Creek Mitigation Site and Boone County Mitigation Site). These sites are located within the larger White River Watershed but outside the 5 immediate sub watersheds of the project area. The depiction of the location of the Boone County site in the SDEIS USGS 7.5' topographic map places it near the Indianapolis Terry Airfield. We recommend the FEIS identify and discuss any limitations this site might have for wetland compensation mitigation from an aviation safety perspective.

Floodplains and Streams/Ditches

The SDEIS identifies increases in 100-year floodplain and stream/ditch impacts by the Major

Moves and re-evaluated SDEIS F4 Alternative from the DEIS impacts. The Major Moves Alternative would impact streams/ditches at 31 crossings (8,313 linear feet) and the re-evaluated SDEIS F4 Alternative would cross 28 streams/ditches (7,882 linear feet). Stream/ditch impacts for the DEIS F4 Alternative were 11 crossings (3,165 linear feet). Floodplain impacts of the Major Moves Alternative are 45.33 acres, 35.12 acres for the SDEIS F4 Alternative and 35 acres for the DEIS F4 Alternative.

The SDEIS identifies that only Cool Creek (Steam 11A, crossing at SR 431) and Lindley Ditch are currently proposed for bridging instead of culverting. However, it is unclear whether the proposed bridges will span only the floodways or the entire 100-year floodplains associated with each waterbody as previously recommended by EPA and the other resource agencies. We recommend the FEIS address this issue.

We continue to encourage, where feasible, bridging of unavoidable wetlands, streams and floodplain areas to minimize fill and allow for movement of flood waters and wildlife.

Air Quality

24-hour PM_{2.5}: EPA now has a new lower standard for 24-hour 2.5 micron particulate matter (PM_{2.5}). However, we have not yet designated areas as nonattainment and conformity will not apply until one year after the designations. EPA understands that FHWA will revisit this issue for this project when the new 24-hour PM_{2.5} standard is implemented.

Mobile Source Air Toxics: The SDEIS provides a Mobile Source Air Toxics (MSAT) discussion and qualitative analysis. However, the MSAT discussion is based on FHWA's June 2006 "Interim Guidance on Air Toxics Analysis in NEPA Documents." We believe this guidance is not consistent with current academic literature and other published guidance. As an example, we point to the recent extensive report to the American Association of State Highway and Transportation Officials (AASHTO) conducted as part of the National Cooperative Highway Research Program (NCHRP) project: "Analyzing, Documenting, and Communicating the Impacts of Mobile Source Air Toxic Emissions in the NEPA Process", March 2007, [http://www.trb.org/NotesDocs/25-225\(18\) FR.pdf](http://www.trb.org/NotesDocs/25-225(18) FR.pdf). This NCHRP document, commissioned by the State Departments of Transportation, represents current professional practices of air quality experts and identifies air quality tools and approaches that would be appropriate for various NEPA settings and project levels.

Forest Impacts

Upland forest impacts remain at approximately 30 acres. Forests associated with streams help to maintain stream water quality by acting as vegetative buffers in the watershed and provide travel corridors for wildlife. We are concerned with the loss of upland forests, particularly those forests associated with streams. We are particularly concerned with the direct, indirect and cumulative loss of forest associated with Cool Creek.

The Indirect and Cumulative impacts assessments in the DEIS and SDEIS reveal that Hamilton County has already lost a significant amount of its forest land due to residential and commercial

development. With the projected loss of more than 30 acres of forest land associated with this proposal, implementation of the project will contribute to the cumulative loss of forest wildlife habitat and reduce the function forests play in protecting surface water quality in the project area.

The SDEIS does not offer any compensation for the loss of upland forest. We continue to concur with the US Fish and Wildlife Service (USFWS) recommendations in their letter dated 2/2/01, that mitigation of upland forest loss within the Cool Creek floodplain should be addressed by reforestation within the same floodplain. We recommend that the proponents commit to voluntary forest mitigation in the FEIS and provide, as detailed as possible, a conceptual forest mitigation plan.